

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL BUSH,)
Plaintiff,)
vs.) C.A. NO. 1:21-cv-12039-IT
ACTON-BOXBOROUGH REGIONAL SCHOOL)
DISTRICT, PETER LIGHT, DAWN GRIFFIN)
BENTLEY and ERIN O'BRIEN BETTEZ,)
Defendants.)

**MOTION OF DEFENDANTS TO DISMISS PLAINTIFF'S
FIRST AMENDED COMPLAINT UNDER RULE 12(b)(6)**

Defendants, Acton-Boxborough Regional School District ("ABRSD"), Superintendent Peter Light, former Assistant Superintendent Dr. Dawn Bentley, and Director of Community Education Erin Bettez, hereby move to dismiss plaintiff's First Amended Complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state claims upon which relief can be granted. As grounds therefor, defendants state:

1. Plaintiff fails to state a claim for relief under Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131, *et seq.* (Count I).
2. Plaintiff fails to state a substantive due process claim under the Fourteenth Amendment, 42 U.S.C. § 1983 (Count II).
3. Plaintiff fails to state a claim for the violation of his free exercise of religion rights under the First Amendment, 42 U.S.C. § 1983 (Count IV).
4. Plaintiff fails to state claim for the violation of his right to peaceably assemble under the First Amendment, 42 U.S.C. § 1983 (Count V).
5. Plaintiff fails to state an equal protection claim under the Fourteenth Amendment, 42 U.S.C. § 1983 (Count VI).

6. Plaintiff fails to state a civil rights conspiracy claim against Superintendent Peter Light and Erin Bettez under 42 U.S.C. § 1985 (Count III).

7. Defendants, Superintendent Peter Light, Dr. Dawn Bentley and Erin Bettez, are entitled to qualified immunity in their individual capacities under 42 U.S.C. § 1983 (Counts II, IV, V & VI).

Defendants hereby submit the enclosed Memorandum of Law in support of their Motion to Dismiss Plaintiff's First Amended Complaint Under Rule 12(b)(6). A true and accurate copy of the decision of a single justice of the Massachusetts Appeals Court affirming *Family Freedom Endeavor, Inc. v. Riley*, 2021 WL 6298346 (Mass. Super. Ct. Nov. 16, 2021), is attached hereto as Exhibit A.

WHEREFORE, defendants, Acton-Boxborough Regional School District, Superintendent Peter Light, Dr. Dawn Bentley and Erin Bettez, respectfully request that this Honorable Court dismiss plaintiff's First Amended Complaint for failure to state claims upon which relief can be granted. Fed.R.Civ.P.12(b)(6).

REQUEST FOR ORAL ARGUMENT

Defendants respectfully request that this Honorable Court schedule oral argument on their Motion to Dismiss Plaintiff's First Amended Complaint Under Rule 12(b)(6).

Respectfully submitted,

The Defendants,

ACTON-BOXBOROUGH REGIONAL SCHOOL
DISTRICT, SUPERINTENDENT PETER LIGHT, DR.
DAWN BENTLEY and ERIN BETTEZ,

By their Attorneys,

PIERCE DAVIS & PERRITANO LLP

/s/ John J. Davis

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Dated: September 26, 2022

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Undersigned counsel for the defendants hereby certifies, pursuant to Local Rule 7.1(a)(2), that on September 26, 2022, counsel conferred in good faith with *pro se* plaintiff, Michael Bush, by telephone, and attempted in good faith to resolve or narrow the issues regarding defendants' Motion to Dismiss Plaintiff's First Amended Complaint Under Rule 12(b)(6).

CERTIFICATE OF SERVICE

I hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on September 26, 2022.

/s/ John J. Davis

John J. Davis, Esq.